



FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 2014-01]

Extension of Administrative Fines Program

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: Under the Federal Election Commission's Administrative Fines Program ("AFP"), the Commission may assess civil monetary penalties for certain violations of the reporting requirements of the Federal Election Campaign Act of 1971, as amended ("FECA"). Congress recently amended FECA to extend the end date of the statutory authorization for the AFP to December 31, 2018. Accordingly, the Commission is extending its AFP regulations through the new statutory expiration date. The Commission is also deleting one administrative provision from its AFP regulations. Further information is provided in the Supplementary Information that follows.

DATES: Effective Date: [Insert date of publication in FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Robert M. Knop, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: Under 2 U.S.C. 437g(a)(4)(C), the Commission is authorized to assess civil monetary penalties for certain violations of FECA's reporting requirements. Congress initially enacted this authorization in 2000 with a sunset date of December 31, 2001.¹ Congress has since extended the AFP's

¹ Treasury and General Government Appropriations Act, 2000, Pub. L. No. 106-58, sec. 640, 113 Stat. 430, 476-77 (1999).

statutory authorization several times.² Most recently, Congress extended the statute to encompass violations relating to reporting periods that end on or before December 31, 2018. Act of Dec. 26, 2013, Pub. L. No. 113-72, sec. 1.³

The Commission's regulations implementing the AFP can be found at 11 CFR 111.30-111.46. Section 111.30 specifies the end date of the program; each time Congress has extended the statute that authorizes the AFP, the Commission has revised the end date in section 111.30 accordingly.⁴ To implement Congress's most recent extension of the AFP's authorization — and to obviate the need to revise section 111.30 each time Congress extends the statute — this final rule revises section 111.30 to provide that the AFP applies to reporting periods that “end on or before the date specified in 2 U.S.C. 437g(a)(4)(C)(v).”

The Commission's current AFP regulations apply “to reporting periods that . . . end on or before December 31, 2013.” 11 CFR 111.30. Because the statutory extension was not enacted until late December 2013, there is a short gap between the end date of the Commission's current regulations and the effective date of this final rule on [insert date of publication in the FEDERAL REGISTER]. Reports covering reporting periods that end during this gap are not subject to the AFP; they are instead subject to the

² Act of Oct. 16, 2008, Pub. L. No. 110-433, sec. 1(a), 122 Stat. 4971 (extending authorization through Dec. 31, 2013); Transportation, Treasury, Housing and Urban Development, The Judiciary, The District of Columbia, and Independent Agencies Appropriations Act, 2006, Pub. L. No. 109-115, sec. 721, 119 Stat. 2396, 2493-94 (2005) (extending through Dec. 31, 2008); Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, sec. 639, 118 Stat. 3, 359 (extending through Dec. 31, 2005); Treasury and General Government Appropriations Act, 2002, Pub. L. No. 107-67, sec. 642, 115 Stat. 514, 555 (2001) (extending through Dec. 31, 2003).

³ In addition to extending the end date of the AFP statute, the 2013 act also authorized the Commission to expand the scope of the AFP to encompass additional categories of reporting violations. The Commission intends to address that expansion of the AFP through a separate rulemaking.

⁴ Extension of Administrative Fines Program, 73 FR 72687 (Dec. 1, 2008); Extension of Administrative Fines Program, 70 FR 75717 (Dec. 21, 2005); Extension of Administrative Fines Program, 69 FR 6525 (Feb. 11, 2004); Extension to Administrative Fines, 66 FR 59680 (Nov. 30, 2001).

Commission's enforcement procedures set forth at 11 CFR part 111, subpart A.⁵ See 11 CFR 111.31(a).

This final rule also deletes 11 CFR 111.41, which requires administrative fines to be paid by check or money order. Deleting this requirement will enable the Commission to provide filers with additional and convenient ways to pay administrative fines, such as by credit card.

The Commission is promulgating this final rule without advance notice or an opportunity for comment because it falls under the "good cause" exemption of the Administrative Procedure Act. See 5 U.S.C. 553(b)(B). That exemption allows agencies to dispense with notice and comment when "impracticable, unnecessary, or contrary to the public interest." Id. The Commission finds that notice and comment are unnecessary here because this final rule merely extends the applicability of the existing AFP and deletes one administrative provision; the final rule makes no substantive changes to the AFP. See Extension of Administrative Fines Program, 73 FR 72687 (Dec. 1, 2008) (extending AFP's effective date and making one non-substantive change without notice and comment, and observing that all substantive AFP regulations were subject to notice and comment in 2000, 2002, and 2006). In addition, this final rule falls within the "good cause" exception to the delayed effective date provisions of the Administrative Procedure Act and the Congressional Review Act. 5 U.S.C. 553(d), 808(2). Accordingly, this final rule is effective upon publication in the Federal Register. The Commission is not required to submit this rule for congressional review. See 2 U.S.C. 438(d)(1), (4).

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

⁵ These reports are: (1) post-general reports in relation to the December 17, 2013, special general election in Alabama's 1st congressional district; and (2) 48-hour contribution notices in relation to the January 14, 2014, special primary election in Florida's 13th congressional district.

The provisions of the Regulatory Flexibility Act are not applicable to this final rule because the Commission was not required to publish a notice of proposed rulemaking or to seek public comment under 5 U.S.C. 553 or any other laws. 5 U.S.C. 603(a), 604(a). Therefore, no regulatory flexibility analysis is required.

List of Subjects in 11 CFR Part 111

Administrative practice and procedure, Elections, Law enforcement, Penalties.

For the reasons set out in the preamble, the Federal Election Commission amends Subchapter A of Chapter I of Title 11 of the Code of Federal Regulations as follows:

PART 111—COMPLIANCE PROCEDURE (2 U.S.C. 437g, 437d(a))

1. The authority citation for part 111 continues to read as follows:

Authority: 2 U.S.C. 432(i), 437g, 437d(a), 438(a)(8); 28 U.S.C. 2461 nt; 31 U.S.C. 3701, 3711, 3716-3719, and 3720A, as amended; 31 CFR parts 285 and 900-904.

2. Revise § 111.30 to read as follows:

§ 111.30 When will subpart B apply?

Subpart B applies to violations of the reporting requirements of 2 U.S.C. 434(a) committed by political committees and their treasurers that relate to the reporting periods that begin on or after July 14, 2000, and that end on or before the date specified by 2 U.S.C. 437g(a)(4)(C)(v). This subpart, however, does not apply to reports that relate to reporting periods that end between January 1, 2014, and [insert date of publication in the FEDERAL REGISTER].

§ 111.41 [Removed and Reserved]

3. Remove and reserve § 111.41.

On behalf of the Commission,

Lee E. Goodman,
Chairman,
Federal Election Commission.

DATED: January 13, 2014.

[BILLING CODE: 6715-01-P]

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